

Claimant returned to Emporia, Kansas, on May 23, 1995 and sought medical treatment at Newman Memorial Emergency Room on May 24, 1995. He was seen by T.P. Harris, D.O., who had performed the double hernia surgery in March of 1995. The medical records admitted at the preliminary hearing established that the claimant gave Dr. Harris a history of feeling discomfort in his left groin after lifting and pulling at work. Dr. Harris

diagnosed a recurrence of a left inguinal hernia. On June 2, 1995, Dr. Harris surgically repaired the recurrent hernia.

Respondent had claimant's supervisor, Sean Carlton, testify in an effort to rebut the claimant's testimony. Mr. Carlton testified that claimant complained about pain in his left stomach area, but that the claimant had notified him of the pain a week earlier than May 23, 1995. Mr. Carlton also testified that the reason that the claimant left Fremont, Nebraska, and was no longer employed by the respondent, was because of a disagreement between him and the claimant.

The Appeals Board finds that the respondent's representative's testimony does not rebut the testimony of the claimant and the documentation contained in the medical records admitted by the claimant. The Appeals Board finds that the claimant has established that it is more probably true than not that he suffered a personal injury by accident that arose out of and in the course of his employment with the respondent.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order for Compensation of Administrative Law Judge Floyd V. Palmer entered on November 6, 1995, should be, and is hereby, affirmed in all respects.

IT IS SO ORDERED.

Dated this ____ day of January 1996.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Michael G. Patton, Emporia, Kansas
Gregory D. Worth, Lenexa, Kansas
Floyd V. Palmer, Administrative Law Judge
Philip S. Harness, Director